

IT IS ORDERED

Date Entered on Docket: December 30, 2020



The Honorable David T. Thuma  
United States Bankruptcy Judge

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**UNITED STATES BANKRUPTCY COURT  
FOR THE DISTRICT OF NEW MEXICO**

In Re:

Heriberto Tomas Guerrero fdba Beto's Tires, and  
Blanca Ivonne Guerrero,

Debtors.

Case No. 20-12138-t7

Chapter: 7

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**DEFAULT ORDER GRANTING MOTION FOR RELIEF FROM STAY AND TO  
ABANDON PERSONAL PROPERTY KNOWN AS 2020 TOYOTA TUNDRA, VIN  
#5TFAY5F10LX874953**

This matter came before the Court on the Motion for Relief from Automatic Stay and to Abandon Personal Property filed on December 1 2020, Docket No. 13 (the "Motion") by Toyota Motor Credit Corporation ("Movant"). The Court, having reviewed the record and the Motion, and being otherwise sufficiently informed, FINDS:

1. On December 1, 2020, Movant served the Motion and a Notice of the Motion (the "Notice") on the case Trustee, Clarke C. Coll ("Trustee"), and on Debtors' counsel, Cheryl S. Davis, by use of the Court's case management and electronic filing system for the transmission

of notices, as authorized by Fed.R.Civ.P. 5(b)(3) and NM LBR 9036-1, and on Debtors by United States first class mail, in accordance with Bankruptcy Rules 7004 and 9014.

2. The Motion relates to the personal property known as 2020 Toyota Tundra, VIN #5TFAY5F10LX874953 (the "Collateral"). The Notice specified an objection deadline of 21 days from the date of service of the Notice, to which 3 days was added under Bankruptcy Rule 9006(f);

3. The Notice was sufficient in form and content;

4. The objection deadline expired on December 25, 2020;

5. As of neither Debtors nor Trustee, nor any other party in interest, filed an objection to the Motion;

6. The Motion is well taken and should be granted as provided herein; and

7. By submitting this Order to the Court for entry, the undersigned counsel for Movant certifies under penalty of perjury that, on December 28, 2020, Teresa M. Perry of Weinstein & Riley, P.S. searched the data banks of the Department of Defense Manpower Data Center ("DMDC") and found that DMDC does not possess any information indicating that Deidra Carol Wilson is currently on active military duty of the United States.

IT IS THEREFORE ORDERED:

1. Pursuant to 11 U.S.C. §362(d), Movant and any and all holders of liens against the Collateral, of any lien priority, are hereby are relief from the automatic stay to permit Movant to exercise its right to take any and all action necessary and appropriate to enforce Movant's interest against the Collateral, including, but not limited to, the right to repossess and liquidate its Collateral and applicable State law.

2. The Trustee is deemed to have abandoned the Collateral from the estate pursuant to 11 U.S.C. §554 as of the date of entry of this Order, and the Collateral therefore no longer is property of the estate. As a result, Movant need not name Trustee as a defendant in any state court action it may pursue to repossess and liquidate liens against the Collateral and need not notify Trustee of any sale of the Collateral.

3. This Order does not waive Movant's claim against the estate for any deficiency owed by Debtors after any repossession sale or other disposition of the Collateral. Movant may file an amended proof of claim for this bankruptcy case within 30 days after a repossession sale of the Collateral should it claim that Debtors owes any amount after the sale of the Collateral.

4. This Order shall continue in full force and effect if this case is dismissed or converted to a case under another chapter of the Bankruptcy Code.

5. This order is effective and enforceable upon entry. The 14-day stay requirement of Fed.R.Bankr.P. 4001(a)(3) is waived.

6. Movant is further granted relief from the stay to engage in reaffirmation discussions or negotiations or other settlement discussions with Debtors and to enter into a loan reaffirmation with Debtor(s).

XXX END OF ORDER XXX

Submitted by:

/s/ Elizabeth V. Friedenstein

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